Overview

- Why Open Data?
- The Legal Landscape
  - Sui generis database rights
- Overview of Licenses
- Issues to Consider
  - When providing open data
  - When using open data

***Disclaimer: IAALBIANYL***
Why Open Data?
What is Open Data?

“Open means **anyone can freely access, use, modify, and share for any purpose** (subject, at most, to requirements that preserve provenance and openness).”

Open Knowledge Foundation: http://opendefinition.org/
Open Data vs Open Source

**Similarities**
- Framework
- Goals (maybe)

**Differences**
- Legal landscape
- Sources (who are the producers?)
- User pool
Should you use an open data license?

**Pros**
- Collaboration
- Transparency
- Kickstarts research
- Enables reuse

**Cons**
- Adds maintenance & expectations
- Loss of control
- Enables reuse
The Legal Landscape
The original selection and arrangement of facts is copyrightable

Basic arrangements such as alphabetical, numerical, chronological, are not original – but choosing to include some items and not others can be

Copying of facts is possible without copying the selection or arrangement

Copying a small number of invented or “trap” items does not in of itself create infringement of the whole – *Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 US 340, 344 (1991) (finding copied white pages not copyrightable while noting four “fictitious listings”)

Digitizing something or putting it into a certain format doesn’t grant copyright over the original
Other nations - Copyright protection varies
- “sweat of the brow” theory
- Creativity threshold
Status of the Law

- US - No sui generis protection for databases
- Europe – Yes sui generis protection for databases
  - Lasts 15 years, much shorter than copyright
- UK – Due to Brexit, existing databases will keep protection for current term, but future…?
- A few other countries, e.g., Russia have sui generis protection for databases – mostly untested
Contract law is separate

- Contract law applies to the person who enters into the agreement and, if they represent a company, their company.
- Similar issues to open source.
Licenses Overview
Public Domain and Equivalent

- Creative Commons Zero
- Public Domain Dedication License (PDDL)

- Simple and easy to understand
- Completely disclaim control
- Data may end up anywhere
Attribution licenses

- Community Data License Agreement Permissive (CDLA-Permissive)
- CC-BY
- Open Data Common Attribution License
- Open Government Licence (OGL)
- If you absolutely need attribution, make the clause flexible
  - “…acknowledge the source of the Information in your product or application by including or linking to any attribution statement specified by the Information Provider(s) and, where possible, provide a link to this licence;”
Other limitations

- Academic-only
- CC-BY-NC – non-commercial
- CC-BY-ND – no derivatives
- Personal use only
- Government use only
Sharealike licenses

- Open Data Common Open Database License (ODbL)
- CC-BY-SA
- Community Data License Agreement Sharing (CDLA-Sharing)
Issues to Consider

PROVIDING OPEN DATA
Useability

- To be useful, data often requires a lot of mixing, altering, and piecemeal delivery

- Limiting clauses:
  - Require particular form of downstream attribution
  - Forbids resale/commercial use
  - Forbidding derivatives (e.g., CC-BY-ND)

- Compatibility with other licenses
  - Sharealike requirements
The Open Database License

- [https://opendatacommons.org/licenses/odbl/1-0/index.html](https://opendatacommons.org/licenses/odbl/1-0/index.html)
- Includes a share-alike clause
  - What is a Derivative Database vs a Collective Database
  - Form of attribution
- Copyright page
- FAQ
- Seven sets of Community Guidelines
- License compatibility guide and letter template

*This is after the license change from CC-BY-SA!
Legal Clearance

- Requirement to maintain data freshness
- Regional limitations
- Time limits or can be revoked at any time
- Indemnity clauses
Other Issues

- Privacy laws
  - GDPR
  - CCPA
  - Illinois
    - Limitations on use of certain types of data for certain purposes
- Copyright for individual pieces of the database
- Trademark
Making it easy for others to read a license

- Website
  - FAQ
  - Legal/License page
  - Link next to download button
- GitHub
  - README
  - LICENSE file
- Text file with data file download
- Crosslink everything!
- Link to license and include copy of the text
- Include exactly how you would like to be attributed and offer a suggested academic-format citation
Issues to Consider

USING OPEN DATA
Finding License Info

- **ASK:**
  - Did the County/State/City/Agency produce this data?
  - Are there any restrictions on using this data?
    - I can share this data with others?
    - Can I use this data commercially?
  - Is this data in the public domain?
  - What is the license or terms of use for this data?
Finding License Info

- If you find a dataset but are confused about whether it carries any use restrictions or who it’s from...

- DON’T ASK
  - Is this data open?
  - Is this data free?
  - Is this compatible with X, Y, and Z licenses?
Document Data Sources

- Include all information about the source
- Include all information about the license
  - Screenshot where the license is indicated or the license text if it's custom
- Maintain record of correspondence
Questions?
References

- Open Data Institute - [https://theodi.org/](https://theodi.org/)
- Open Knowledge Foundation Open Definition - [https://opendefinition.org/](https://opendefinition.org/)
- OpenStreetMap Foundation - [https://wiki.osmfoundation.org/wiki/Main_Page](https://wiki.osmfoundation.org/wiki/Main_Page)
References